IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE R.SUBHASH REDDY**

**WRIT PETITION NO : 3912 of 1996**

Between:

Smt. D.Bala Rajamma
H.No.2-2-313/2 Amberpet
Hyderabad

**..... PETITIONER**

AND

1 The Spl.Officer and Competent Authority ULC
Hyderabad
2 The Commissioner, Land Reforms & Urban Land Ceilings
Hyderabad

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in nature of writ of Mandamus quashing the proceedings vide Appeal No. HYD 213/94, dt:17/10/95 and direct the respondent-1 to give an opprotunity of personal hearing.

**Counsel for the Petitioner: MR.P.BADRI PREMNATH**

**Counsel for the Respondents: GP FOR REVENUE**

**The Court made the following :**

**THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY**

**WRIT PETITION NO.3912 OF 1996**

**ORDER:**

This writ petition is filed questioning the order dated 17.10.1995 in Appeal C.No.HYD/213/94 passed by the appellate authority, i.e., second respondent herein in exercise of powers under Section 33 of the Urban Land (Ceiling and Regulation) Act of 1976 (for short 'the Act').

The petitioner is a declarant in C.C.No.6753/76. On the ground that objections were not filed for the draft statement prepared under Section 8(1) of the Act and the notice issued under Section 8(3) of the Act, the preliminary authority, i.e., the first respondent passed the orders dated 12.4.1994 in proceedings No.F2/6753/76 confirming that the petitioner is holding 14681.56 square metres of vacant land as surplus. Against the said order, the petitioner herein preferred the appeal. But the appellate authority has partly allowed the appeal in respect of land in Survey No.54 situated at Amberpet and remitted the matter to the preliminary authority for enquiry to ascertain as to whether the said land is vacant land or not.

It is contended by Sri Badri Premnath, the learned counsel for the petitioner herein,

that the preliminary authority has not given any opportunity to the petitioner as provided under Section 8(4) of the Act before passing the final order dated 12.4.1994. It is stated that though the draft statement prepared under Section 8(1) of the Act and the notice under Section 8(3) of the Act were issued to the petitioner, thereafter no notice of hearing as contemplated under the above referred provision was served.

In the counter also there is no indication that the petitioner was given any opportunity of hearing after draft statement was served on him. Further it is stated that in view of the location of the land in the core area of Hyderabad urban agglomeration limits, it is exempted by virtue of the government orders issued in G.O.Ms.No.733, dated 31.10.1988.

From a reading of the impugned order and the averments in the counter, it is clear that the impugned order passed by the preliminary authority is in violation of the provisions of Section 8(4) of the Act. Merely because objections are not filed, it is not open for the preliminary authority, i.e., the first respondent to pass final orders under Section 8(4) of the Act without giving any opportunity of hearing to the petitioner/declarant. The learned counsel relied on a judgment of this Court in ***P.DHANA LAXMI AND OTHERS v SPECIAL OFFICER, URBAN LAND CEILINGS, WARANGAL*** wherein the learned Single Judge of this Court held that mere non filing of objections to the draft statement cannot be the reason for issuance of final orders without giving opportunity of hearing. Having regard to the facts of this case, the judgment referred to by the learned counsel squarely applies to the case on hand and supports the plea of the petitioner. Further the plea of the petitioner that the land is to be exempted in view of the government orders is also a matter to be considered by the authorities.

In that view of the matter, the impugned order dated 17.10.1995 in C.No.Hyd/213/94 on the file of the second respondent and the order of the Special Officer, i.e., the first respondent, dated 12.4.1994 issued in proceedings No.F2/6753/76 are hereby set aside. The first respondent-Special Officer is directed to again conduct enquiry by giving opportunity of hearing to the petitioner as contemplated under Section 8(4) of the Act by notifying the date of enquiry to the petitioner/declarant and to pass appropriate orders, afresh.

Subject to above direction, the writ petition is allowed. No order as to costs.

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**(JUSTICE R.SUBHASH REDDY)**

**Dt.17.02.2005.**

Mdaa.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the 17th day of February, two thousand and five.

Copy to:

1 The Spl.Officer and Competent Authority ULC
Hyderabad
2 The Commissioner, Land Reforms & Urban Land Ceilings
Hyderabad

3. Two C.Cs to G.P.for Revenue, High Court of A.P., Hyderabad (OUT).

4. Two C.D.copies.